

Senate Constitutional Amendment No. 1

RESOLUTION CHAPTER 1

Senate Constitutional Amendment No. 1—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 3 of Article I thereof, relating to access to government information.

[Filed with Secretary of State January 14, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

SCA 1, Burton. Access to government information.

The California Constitution provides that the people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good. Various provisions of existing law, including, among others, the California Public Records Act, the Legislative Open Records Act, the Bagley-Keene Open Meeting Act, and the Ralph M. Brown Act, provide, with some exceptions, for public access to government records and meetings of government bodies.

This measure would provide that the people have the right of access to information concerning the conduct of the people's business. It would provide that the meetings of public bodies and writings of public officials and agencies shall be open to public scrutiny.

This measure also would provide that any statute, court rule, or other authority, including those in effect on the effective date of this measure, shall be broadly construed if it effectuates the people's right of access, and narrowly construed if it limits the right of access. A statute, court rule, or other authority adopted after the effective date of this measure that limits the right of access shall be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This measure also would provide that nothing in its provisions supersedes or modifies the right to privacy guaranteed by the California Constitution, or affects the construction of any statute, court rule, or other authority to the extent that it protects that right to privacy, including any statutory procedures governing discovery or disclosure of information concerning the official performance or professional qualifications of a peace officer. It would state that nothing in its provisions supersedes or modifies any provision of the California Constitution, including the guarantee of due process and equal protection.

It would state that its provisions do not repeal or nullify, expressly or by implication, any constitutional or statutory exception to the right of access to public records or meetings of public bodies that is in effect on the effective date of this measure, including any statute protecting the confidentiality of law enforcement and prosecution records.

The measure would state that its provisions do not repeal, nullify, supersede, or modify protections for the confidentiality of proceedings and records of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses provided by certain provisions of the California Constitution, state law, or legislative rules adopted in furtherance of those provisions; nor do they affect the scope of permitted discovery in judicial or administrative proceedings regarding deliberations of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses.

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 2003–04 Regular Session commencing on the second day of December 2002, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California that the Constitution of the State be amended by amending Section 3 of Article I thereof, to read:

SEC. 3. (a) The people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good.

(b) (1) The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.

(2) A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access. A statute, court rule, or other authority adopted after the effective date of this subdivision that limits the right of access shall be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

(3) Nothing in this subdivision supersedes or modifies the right of privacy guaranteed by Section 1 or affects the construction of any statute, court rule, or other authority to the extent that it protects that right to privacy, including any statutory procedures governing discovery or disclosure of information concerning the official performance or professional qualifications of a peace officer.

(4) Nothing in this subdivision supersedes or modifies any provision of this Constitution, including the guarantees that a person may not be

deprived of life, liberty, or property without due process of law, or denied equal protection of the laws, as provided in Section 7.

(5) This subdivision does not repeal or nullify, expressly or by implication, any constitutional or statutory exception to the right of access to public records or meetings of public bodies that is in effect on the effective date of this subdivision, including, but not limited to, any statute protecting the confidentiality of law enforcement and prosecution records.

(6) Nothing in this subdivision repeals, nullifies, supersedes, or modifies protections for the confidentiality of proceedings and records of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses provided by Section 7 of Article IV, state law, or legislative rules adopted in furtherance of those provisions; nor does it affect the scope of permitted discovery in judicial or administrative proceedings regarding deliberations of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses.